

1-1 By: Birdwell, Nichols S.B. No. 220
1-2 (In the Senate - Filed March 8, 2013; March 12, 2013, read
1-3 first time and referred to Committee on State Affairs;
1-4 May 10, 2013, reported favorably by the following vote: Yeas 5,
1-5 Nays 0; May 10, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15			X	
1-16			X	

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the abolition of the office of the fire fighters'
1-20 pension commissioner and the transfer and disposition of its
1-21 functions relating to the Texas Emergency Services Retirement
1-22 System and the Texas local firefighters retirement systems.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 ARTICLE 1. AMENDMENTS TO SUBTITLE H, TITLE 8, GOVERNMENT CODE

1-25 SECTION 1.01. Section 861.001, Government Code, is amended
1-26 by adding Subdivision (5-a) to read as follows:

1-27 (5-a) "Executive director" means the person appointed
1-28 executive director under Section 865.0095.

1-29 SECTION 1.02. Section 861.008, Government Code, is amended
1-30 to read as follows:

1-31 Sec. 861.008. IMMUNITY FROM LIABILITY. The state board,
1-32 executive director [~~commissioner~~], and employees of the pension
1-33 system are not liable for any action taken or omission made or
1-34 suffered by them in good faith in the performance of any duty or
1-35 prerogative in connection with the administration of the pension
1-36 system.

1-37 SECTION 1.03. Subsection (a), Section 862.001, Government
1-38 Code, is amended to read as follows:

1-39 (a) The governing body of a department that performs
1-40 emergency services may, in the manner provided for taking official
1-41 action by the body, elect to participate in the pension system. A
1-42 governing body shall notify the executive director [~~commissioner~~]
1-43 as soon as practicable of an election made under this subsection.
1-44 Except as provided by Subsection (b), an election to participate
1-45 under this subsection is irrevocable.

1-46 SECTION 1.04. Subsection (a), Section 862.0025, Government
1-47 Code, is amended to read as follows:

1-48 (a) Except as provided by Subsection (b), the governing body
1-49 of a participating department may make an election to include all
1-50 persons who provide support services for the department as members
1-51 of the pension system on the same terms as all other volunteers of
1-52 the department. An election under this section takes effect on the
1-53 first day of the calendar month that begins after the month in which
1-54 the election is made and communicated to the executive director
1-55 [~~commissioner~~]. Once made, an election under this section is
1-56 irrevocable.

1-57 SECTION 1.05. Subsections (a), (d), and (f), Section
1-58 864.005, Government Code, are amended to read as follows:

1-59 (a) A local board shall require a member who is receiving
1-60 temporary disability benefits to file a disability rating report
1-61 every three months from a physician chosen by the local board. If a

report indicates a significant improvement in condition, the local board, after notice and a hearing, may adopt an order to terminate payments. The local board shall send a copy of each order adopted under this subsection to the executive director ~~[commissioner]~~.

(d) If the local board has reason to believe that a ground for termination of temporary disability benefits exists, the local board may set a date for a hearing on the matter. The local board, after notice and a hearing, may adopt an order terminating temporary disability benefits if the local board determines that a ground for termination exists. The local board may not adopt an order under this subsection on the basis of a physician's previously submitted statement as to the likely duration of the disability if the local board determines, after a hearing, that the disability continues. The local board shall send a copy of each order adopted under this subsection to the executive director ~~[commissioner]~~.

(f) If the state board ~~[commissioner]~~ has reason to believe that a ground for termination of a continuing disability retirement annuity exists, the state board ~~[commissioner]~~ shall set a date for a hearing on continuation or termination of the annuity. The state board ~~[commissioner]~~, after notice and a hearing, shall adopt an order terminating the continuing disability retirement annuity if the state board ~~[commissioner]~~ determines that a ground for termination exists.

SECTION 1.06. Subsection (a), Section 864.010, Government Code, is amended to read as follows:

(a) The executive director ~~[commissioner]~~ shall continue to administer benefits of the pension system for members and retirees who perform service for a formerly participating department that has withdrawn from participation in the pension system or has ceased to exist.

SECTION 1.07. Subsections (a), (b), (c), (e), (f), and (g), Section 864.016, Government Code, are amended to read as follows:

(a) A claim for disability retirement benefits or a lump-sum death benefit must be filed with the local board. A claim for service retirement benefits must be filed with the executive director ~~[commissioner]~~, who shall forward the claim to the appropriate local board for a hearing. A claim for a death benefit annuity must be filed with the executive director. The executive director ~~[commissioner, who]~~ shall make a determination of the merits of the claim for a death benefit annuity and issue a decision to the claimant. On receiving a claim under this section, the local board shall hold a hearing to decide the claim. The local board shall send a written copy of its decision to the claimant and the executive director ~~[commissioner]~~. If a local board does not determine a claim for service retirement benefits and file its determination with the executive director ~~[commissioner]~~ before the 16th day after the date the local board receives the claim, the executive director ~~[commissioner]~~ may determine the merits of the claim.

(b) A person aggrieved by a decision of a local board relating to eligibility for or the amount of benefits under this subtitle may appeal the decision to the state board ~~[commissioner]~~.

(c) An appeal of a local board decision under this section is begun by delivering a notice of appeal to the presiding officer or secretary of the local board that made the decision. The notice must be delivered not later than the 20th day after the date of the decision and contain a brief description of the reasons for the appeal. The aggrieved person must file a copy of the notice with the state board ~~[commissioner]~~.

(e) After a hearing under Subsection (d), the state board ~~[commissioner]~~ shall decide each appeal from a local board decision, issue a written opinion, and notify the local board and the claimant if the state board ~~[commissioner]~~ overrules the local board's decision.

~~(f) [A person aggrieved by a decision of the commissioner under this section may appeal the decision to the state board. The state board shall decide each appeal based on the hearing record.]~~

~~(g)]~~ A final decision of the state board under this section

is subject to judicial review under Chapter 2001. The standard of review is by substantial evidence. Venue of the appeal is only in a district court in Travis County ~~[may not be appealed to a court or be subject to any other legal process]~~.

SECTION 1.08. Chapter 865, Government Code, is amended by adding Section 865.0011 to read as follows:

Sec. 865.0011. SUNSET REVIEW. The state board of the pension system is subject to review under Chapter 325 (Texas Sunset Act) but is not abolished under that chapter. The state board shall be reviewed during the period in which state agencies scheduled to be abolished in 2025, and every 12th year after that year, are reviewed.

SECTION 1.09. Section 865.002, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) A person may not be a trustee or an employee of the pension system employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of emergency services, including firefighting, or public retirement systems; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of emergency services, including firefighting, or public retirement systems.

(d) In this section, a Texas trade association means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(e) A person may not serve as a trustee or act as the general counsel to the state board or the pension system if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the state board.

SECTION 1.10. Chapter 865, Government Code, is amended by adding Section 865.0035 to read as follows:

Sec. 865.0035. STATE BOARD MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the state board may not vote, deliberate, or be counted as a member in attendance at a meeting of the state board until the person completes a training program that complies with this section.

(b) A training program must provide the person with information regarding:

(1) this subtitle;

(2) the programs, functions, rules, and budget of the pension system;

(3) the results of the most recent formal audit of the system;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the system or the Texas Ethics Commission.

(c) A person appointed to the state board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 1.11. Subsection (c), Section 865.005, Government Code, is amended to read as follows:

(c) If the executive director ~~[commissioner]~~ has knowledge that a potential ground for removal exists, the executive director ~~[commissioner]~~ shall notify the presiding officer of the state board of the ground. The presiding officer shall then notify the governor that a potential ground for removal exists.

SECTION 1.12. Section 865.006, Government Code, is amended

by adding Subsection (c) to read as follows:

(c) The state board shall develop and implement policies that:

(1) clearly separate the policy-making responsibilities of the state board and the management responsibilities of the executive director and the staff of the pension system; and

(2) provide the public with a reasonable opportunity to appear before the state board and to speak on any issue under the jurisdiction of the state board.

SECTION 1.13. Chapter 865, Government Code, is amended by adding Section 865.0061 to read as follows:

Sec. 865.0061. WRITTEN POLICY ON MANAGING AND ADMINISTERING CONTRACTS. The state board shall adopt a written policy, including procedures, to guide staff in managing and administering contracts entered into by or on behalf of the pension system. The written policy adopted under this section must, at a minimum:

(1) address how the pension system:

(A) plans for contracting needs and develops solicitation documents;

(B) reviews, evaluates, and awards contract proposals;

(C) manages and approves contract changes;

(D) identifies performance issues and resolves contract disputes;

(E) monitors contract expenditures; and

(F) closes out contracts; and

(2) require the pension system to maintain a central location for filing contracts and information related to contracts entered into by or on behalf of the pension system.

SECTION 1.14. Subsection (c), Section 865.007, Government Code, is amended to read as follows:

(c) The state board or the executive director ~~[commissioner]~~ may accept on behalf of the pension system gifts of money or other property from any public or private source.

SECTION 1.15. Chapter 865, Government Code, is amended by adding Section 865.0095 to read as follows:

Sec. 865.0095. EXECUTIVE DIRECTOR. (a) The state board, by a majority vote of all members, shall appoint a person other than a member of the board to serve at the board's will as executive director.

(b) To be eligible to serve as the executive director, a person must:

(1) be a citizen of the United States; and

(2) have executive ability and experience necessary to conduct the duties of executive director.

SECTION 1.16. Sections 865.010, 865.011, and 865.013, Government Code, are amended to read as follows:

Sec. 865.010. EXECUTIVE DIRECTOR'S ~~[COMMISSIONER'S]~~ DUTIES. (a) The executive director ~~[commissioner]~~ shall oversee the distribution of all benefits.

(b) The executive director ~~[commissioner]~~ shall collect the revenues for the fund from the governing bodies of participating departments.

(c) The executive director ~~[commissioner]~~ may request and administer state funds appropriated by the legislature in addition to those required by this subtitle.

(d) The state board ~~[commissioner]~~ is responsible for recovering any fraudulently acquired benefits. If it appears that fraud has occurred, the state board ~~[commissioner]~~ shall notify the appropriate local board and the claimant and hold a hearing. If after the hearing the state board ~~[commissioner]~~ determines that benefits have been or are being fraudulently acquired, the state board ~~[commissioner]~~ shall seek action in a court.

Sec. 865.011. RECORDS AND REPORTS. (a) The executive director ~~[commissioner]~~ may at any reasonable time examine the records and accounts of local boards.

(b) The executive director ~~[commissioner]~~ shall require in a timely manner periodic reports from the local boards and shall

prepare necessary forms for use by local boards.

(c) The executive director [~~commissioner~~] shall prepare an annual report on the activity and status of the fund and submit the report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(d) The state board shall electronically submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, and the State Pension Review Board if:

(1) as a result of an event or action, there is a significant change to the actuarial valuation of the pension system's assets or liabilities, including the extent to which the system's liabilities are unfunded;

(2) there is any change to the contributions made to or benefits paid from the system; or

(3) an actuarial valuation must be corrected or repeated because of the use of erroneous information or assumptions used in the valuation.

(e) A report submitted under Subsection (d)(1) must include and consider the effect alternative contributions and benefit structures would have on the actuarial valuation of the system, including changes in the state's contribution under Section 865.015, as well as state funding of administrative expenses.

(f) The state board shall determine the meaning of "significant change" for purposes of Subsection (d)(1), which must include circumstances in which there is an increase in the time required to amortize the unfunded liabilities of the pension system to a period that exceeds 30 years, assuming a maximum state contribution under Section 865.015.

(g) A report required under Subsection (d) may be combined with any other report required by this chapter or other law.

Sec. 865.013. MONITORING OF CONTRIBUTION SUBMISSION. A local board shall monitor the timely submission of required contributions to the executive director [~~commissioner~~].

SECTION 1.17. Subsection (c), Section 865.014, Government Code, is amended to read as follows:

(c) Contributions required as provided by this section shall be paid at the times and in the manner that the state board prescribes by rule. Contributions required by this section shall be submitted by electronic funds transfer unless the executive director [~~commissioner~~] grants an exception based on the difficulty of a participating department's use of that payment method. Contributions that are not paid within the time required by the state board accrue interest at the most recent assumed actuarial rate of return on investments of the fund.

SECTION 1.18. Subsection (a), Section 865.017, Government Code, is amended to read as follows:

(a) The pension system shall withhold payment of a monthly retirement annuity if a participating department attempts to provide information to the executive director [~~commissioner~~] relating to continued eligibility to receive the payments and the recipient fails to cooperate or provide the requested information. The state board may adopt rules to enforce this subsection.

SECTION 1.19. Section 865.018, Government Code, is amended by amending Subsection (b) and adding Subsections (c), (d), and (e) to read as follows:

(b) The executive director [~~commissioner~~] and the state board shall certify the actuarial and financial soundness of the fund every two years with the assistance of a qualified actuary.

(c) An actuarial valuation conducted under this section must include:

(1) an analysis clearly shown in the valuation based on each of the following assumptions:

(A) no state contribution to the fund, including no state funding of administrative expenses; and

(B) a maximum state contribution to the fund, including state funding of administrative expenses; and

(2) the number of years required to amortize the unfunded actuarial liabilities of the pension system under each

assumption under Subdivision (1).

(d) At least once every five years, the state board, with the assistance of the actuary, shall:

(1) audit the actuarial valuation required under this section; and

(2) conduct an actuarial experience study, the contents of which are determined by the state board in consultation with the actuary.

(e) The actuarial valuation and experience study required under Subsection (d) are not required to be conducted concurrently.

SECTION 1.20. Subsections (a) and (c), Section 865.019, Government Code, are amended to read as follows:

(a) Information contained in records that are in the custody of the pension system concerning an individual member, annuitant, or beneficiary is confidential under Section 552.101 and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, conservator, or other person who the executive director ~~[commissioner]~~ determines is acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual after the executive director ~~[commissioner]~~ determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the pension system;

(C) a governmental official or employee after the executive director ~~[commissioner]~~ determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee; or

(D) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed under a subpoena and the executive director ~~[commissioner]~~ determines that the individual will have a reasonable opportunity to contest the subpoena.

(c) The executive director ~~[commissioner]~~ may designate other employees of the pension system to make the necessary determinations under Subsection (a).

SECTION 1.21. Subsections (c) and (d), Section 865.020, Government Code, are amended to read as follows:

(c) The medical board shall:

(1) investigate essential statements and certificates made by or on behalf of a member of the pension system in connection with an application for disability retirement or, as requested by the executive director ~~[commissioner]~~, with an application for an on-duty death benefit; and

(2) report in writing to the executive director ~~[commissioner]~~ its conclusions and recommendations on all matters referred to it.

(d) The medical board is not subject to subpoena regarding findings it makes in assisting the executive director ~~[commissioner]~~ under this section, and its members may not be held liable for any opinions, conclusions, or recommendations made under this section.

SECTION 1.22. Chapter 865, Government Code, is amended by adding Section 865.021 to read as follows:

Sec. 865.021. COMPLAINT FILES. (a) The pension system shall maintain a system to promptly and efficiently act on complaints filed with the system. The system shall maintain information about:

(1) parties to the complaint;

(2) the subject matter of the complaint;

(3) a summary of the results of the review or investigation of the complaint; and

(4) the disposition of the complaint.

(b) The pension system shall make information available describing its procedures for complaint investigation and resolution.

(c) The pension system shall periodically notify the complaint parties of the status of the complaint until final disposition.

ARTICLE 2. AMENDMENTS TO CIVIL STATUTES

SECTION 2.01. Sections 22 and 22A, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 22. APPEALS FROM LOCAL BOARD DECISIONS. (a) A person aggrieved by a decision of a board of trustees relating to eligibility for or amount of benefits payable by a retirement system may appeal the decision to the State Office of Administrative Hearings ~~[fire fighters' pension commissioner]~~.

(b) An appeal under this section is begun by delivering a notice of appeal with the chairman, secretary, or secretary-treasurer of the board of trustees that made the decision. The notice must be delivered not later than the 20th day after the date of the decision and contain a brief description of the reasons or grounds for appeal. The aggrieved person must file a copy of the notice with the State Office of Administrative Hearings ~~[fire fighters' pension commissioner]~~.

(b-1) As soon as practicable after receiving a notice of appeal under Subsection (b) of this section, the board of trustees shall refer the matter to the State Office of Administrative Hearings by submitting notice of the appeal to that office.

(c) An appeal under this section ~~[to the fire fighters' pension commissioner]~~ is held in Austin and is a contested case under Chapter 2001, Government Code, ~~[the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)]~~ conducted as a de novo hearing by the State Office of Administrative Hearings.

Sec. 22A. ATTORNEY. A board of trustees may employ an attorney to represent the board in one or all legal matters, including a hearing on appeal to the State Office of Administrative Hearings ~~[fire fighters' pension commissioner]~~. At the request of a board of trustees, the city attorney of the municipality of which the board is a part shall, without additional compensation, represent the board in one or all legal matters.

SECTION 2.02. Subsection (d), Section 27, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) A board of trustees established under this Act shall adopt formal investment policies that emphasize safety and diversity as well as liquidity for benefit payments. In developing those policies, the board of trustees shall give special consideration to the preferred investment practices of the Government Financial Officers Association. ~~[Not later than December 31 of each year, the board of trustees shall submit to the fire fighters' pension commissioner a copy of the investment policies adopted by the board.]~~

SECTION 2.03. Subsections (b) and (c), Section 30, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) Contributions picked up as provided by this section shall be treated as employer contributions in determining tax treatment of the amounts under the Internal Revenue Code of 1986. Each municipality or other political subdivision picking up contributions shall continue, however, to compute federal income tax withholding as if these contributions were employee wages until the first payroll period that begins after the date the ~~[fire fighters' pension commissioner files with the secretary of state a notice stating that the]~~ United States Internal Revenue Service determines ~~[has determined]~~ or a federal court rules ~~[has ruled]~~ that under Section 414(h), Internal Revenue Code of 1986 (26 U.S.C. Section 414(h)), the contributions are not includable in the gross income of a member until they are distributed or made available. Employee contributions picked up as provided by this section shall be deposited to the credit of the individual account of each affected member and shall be treated for all other purposes of this Act as if the contributions had been deducted from the compensation

of members. Picked up contributions are not includable in a computation of contribution rates of the municipality or other political subdivision.

(c) A pick up of employee contributions takes effect in a municipality or other political subdivision on January 1 of the year following the year in which:

(1) the governing body of the municipality or other political subdivision by ordinance has adopted the pick up;

(2) the pick up has been approved by majority vote of the participating members of the retirement system at an election by secret ballot at which at least 50 percent of the participating members vote; and

(3) the ~~[fire fighters' pension commissioner has filed with the secretary of state a notice stating that the]~~ United States Internal Revenue Service issues ~~[has issued]~~ a determination that the plan covering employees of the municipality or other political subdivision is a qualified retirement plan under Section 401(a), Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)), and that its related trust is tax exempt under Section 501(a) of that code (26 U.S.C. Section 501(a)).

ARTICLE 3. CONFORMING CHANGES TO OTHER LAW

SECTION 3.01. (a) Sections 54.353 and 54.3531, Education Code, which were added by Section 17, Chapter 359 (S.B. 32), Acts of the 82nd Legislature, Regular Session, 2011, as a nonsubstantive redesignation of the two versions of Section 54.208, Education Code, as amended by Chapters 1285 (H.B. 2013) and 1299 (H.B. 2347), Acts of the 81st Legislature, Regular Session, 2009, are reenacted to conform to the reenactment of Section 54.208, Education Code, and the addition of Section 54.2081, Education Code, by Chapter 959 (H.B. 1163), Acts of the 82nd Legislature, Regular Session, 2011, and Section 54.353, Education Code, is amended to read as follows:

Sec. 54.353. FIREFIGHTERS ENROLLED IN FIRE SCIENCE COURSES. (a) The governing board of an institution of higher education shall exempt from the payment of tuition and laboratory fees any student enrolled in one or more courses offered as part of a fire science curriculum who:

(1) is employed as a firefighter by a political subdivision of this state; or

(2) is currently, and has been for at least one year, an active member of an organized volunteer fire department participating in the Texas Emergency Services Retirement System or a retirement system established under the Texas Local Fire Fighters Retirement Act or ~~[in this state, as defined by the fire fighters' pension commissioner,]~~ who holds:

(A) an Accredited Advanced level of certification, or an equivalent successor certification, under the State Firemen's and Fire Marshals' Association of Texas volunteer certification program; or

(B) Phase V (Firefighter II) certification, or an equivalent successor certification, under the Texas Commission on Fire Protection's voluntary certification program under Section 419.071, Government Code.

(b) An exemption provided under this section does not apply to deposits that may be required in the nature of security for the return or proper care of property loaned for the use of students.

(c) Notwithstanding Subsection (a), a student who for a semester or term at an institution of higher education receives an exemption under this section may continue to receive the exemption for a subsequent semester or term at any institution only if the student makes satisfactory academic progress toward a degree or certificate at that institution as determined by the institution for purposes of financial aid.

(d) Notwithstanding Subsection (a), the exemption provided under this section does not apply to any amount of additional tuition the institution elects to charge a resident undergraduate student under Section 54.014(a) or (f).

(e) Notwithstanding Subsection (a), the exemption provided under this section does not apply to any amount of tuition the institution charges a graduate student in excess of the amount of

tuition charged to similarly situated graduate students because the student has a number of semester credit hours of doctoral work in excess of the applicable number provided by Section 61.059(1)(1) or (2).

(f) The Texas Higher Education Coordinating Board shall adopt:

(1) rules governing the granting or denial of an exemption under this section, including rules relating to the determination of a student's eligibility for an exemption; and

(2) a uniform listing of degree programs covered by the exemption under this section.

Sec. 54.3531. PEACE OFFICERS ENROLLED IN CERTAIN COURSES.

(a) The governing board of an institution of higher education shall exempt from the payment of tuition and laboratory fees charged by the institution for a criminal justice or law enforcement course or courses an undergraduate student who:

(1) is employed as a peace officer by this state or by a political subdivision of this state;

(2) is enrolled in a criminal justice or law enforcement-related degree program at the institution;

(3) is making satisfactory academic progress toward the student's degree as determined by the institution; and

(4) applies for the exemption at least one week before the last date of the institution's regular registration period for the applicable semester or other term.

(b) Notwithstanding Subsection (a), a student may not receive an exemption under this section for any course if the student has previously attempted a number of semester credit hours for courses taken at any institution of higher education while classified as a resident student for tuition purposes in excess of the maximum number of those hours specified by Section 61.0595(a) as eligible for funding under the formulas established under Section 61.059.

(c) Notwithstanding Subsection (a), the governing board of an institution of higher education may not provide exemptions under this section to students enrolled in a specific class in a number that exceeds 20 percent of the maximum student enrollment designated by the institution for that class.

(d) An exemption provided under this section does not apply to deposits that may be required in the nature of security for the return or proper care of property loaned for the use of students.

(e) The Texas Higher Education Coordinating Board shall adopt:

(1) rules governing the granting or denial of an exemption under this section, including rules relating to the determination of a student's eligibility for an exemption; and

(2) a uniform listing of degree programs covered by the exemption under this section.

(f) If the legislature does not specifically appropriate funds to an institution of higher education in an amount sufficient to pay the institution's costs in complying with this section for a semester, the governing board of the institution of higher education shall report to the Senate Finance Committee and the House Appropriations Committee the cost to the institution of complying with this section for that semester.

(b) Sections 54.208 and 54.2081, Education Code, are repealed.

SECTION 3.02. Subsection (b), Section 572.003, Government Code, is amended to read as follows:

(b) The term means:

(1) the Banking Commissioner of The Banking Department of Texas;

(2) ~~the fire fighters' pension commissioner,~~
[3] the administrative director of the Office of Court Administration of the Texas Judicial System;

(3) ~~(4)~~ the chief executive of the Office of Public Utility Counsel;

(4) ~~(5)~~ the executive director of the State Bar of Texas;

(5) ~~[(6)]~~ the director of the lottery division of the Texas Lottery Commission;

(6) ~~[(7)]~~ the deputy in charge of the department of security in the lottery division of the Texas Lottery Commission;

(7) ~~[(8)]~~ the director of the bingo division of the Texas Lottery Commission; or

(8) ~~[(9)]~~ the secretary of state.

SECTION 3.03. Subdivision (3), Section 614.152, Government Code, is amended to read as follows:

(3) "State fire agency" means the:

(A) Office ~~[(firefighters' pension commissioner, [(B) Texas Department] of Rural Affairs established in the Department of Agriculture;~~

(B) ~~[(C)]~~ service;

(C) ~~[(D)]~~ Texas Commission on Fire Protection;

(D) ~~[(E)]~~ Texas A&M Engineering Extension Service ~~[(of The Texas A&M University System)]; and~~

(E) ~~[(F)]~~ Texas State Fire Marshal's Office of the Texas Department of Insurance.

SECTION 3.04. Section 2155.148, Government Code, is amended to read as follows:

Sec. 2155.148. CERTAIN PURCHASES FOR TEXAS ~~[(STATEWIDE] EMERGENCY SERVICES [(PERSONNEL] RETIREMENT SYSTEM [(FUND)]~~. (a) The Texas Emergency Services Retirement System ~~[(firefighters' pension commissioner]~~ is delegated all purchasing functions relating to the purchase of goods or services from funds other than general revenue funds for a purpose the state board of trustees of the Texas Emergency Services Retirement System ~~[(statewide emergency services personnel retirement fund)]~~ determines relates to the fiduciary duties of the retirement system ~~[(fund)]~~.

(b) The Texas Emergency Services Retirement System ~~[(firefighters' pension commissioner)]~~ shall acquire goods or services by any procurement method approved by the state board of trustees of the Texas Emergency Services Retirement System ~~[(statewide emergency services personnel retirement fund)]~~ that provides the best value to the retirement system ~~[(fund)]~~. The retirement system ~~[(firefighters' pension commissioner)]~~ shall consider the best value standards provided by Section 2155.074.

(c) The commission shall procure goods or services for the Texas Emergency Services Retirement System ~~[(firefighters' pension commissioner)]~~ at the request of the retirement system ~~[(pension commissioner)]~~, and the retirement system ~~[(pension commissioner)]~~ may use the services of the commission in procuring goods or services.

ARTICLE 4. REPEALER

SECTION 4.01. The following statutes are repealed:

(1) Subsection (c), Section 802.103, Government Code;

(2) Subdivision (3), Section 861.001, Government Code;

(3) Subsection (g), Section 18, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes);

(4) Section 18A, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes);

(5) Section 21, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes);

(6) Section 21A, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes); and

(7) Subsection (c), Section 31, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes).

ARTICLE 5. TRANSITION

SECTION 5.01. (a) Not later than September 1, 2013, the state board of trustees of the Texas Emergency Services Retirement System shall appoint an executive director under Section 865.0095, Government Code, as added by this Act.

(b) Effective September 1, 2013:

(1) the office of the fire fighters' pension commissioner is abolished and the term of the person holding that

position expires; and

(2) all powers, duties, obligations, and rights of action of the fire fighters' pension commissioner under:

(A) Subtitle H, Title 8, Government Code, as provided by Article 1 of this Act, are transferred to the:

(i) executive director of the Texas Emergency Services Retirement System appointed under Section 865.0095, Government Code, as added by this Act; or

(ii) state board of trustees of the Texas Emergency Services Retirement System established under Section 865.001, Government Code; and

(B) Section 2155.148, Government Code, are transferred to the Texas Emergency Services Retirement System.

(c) In connection with the transfers required by Subsection (b) of this section, the furniture, computers, other property and equipment, files, and related materials used by the fire fighters' pension commissioner are transferred to the executive director of the Texas Emergency Services Retirement System.

(d) A rule adopted by or on behalf of the fire fighters' pension commissioner in connection with or relating to Subtitle H, Title 8, Government Code, in effect on September 1, 2013, continues in effect until it is amended or repealed by the state board of trustees of the Texas Emergency Services Retirement System.

(e) The unobligated and unexpended balance of any appropriation made to the fire fighters' pension commissioner in connection with or relating to Subtitle H, Title 8, Government Code, for the state fiscal biennium ending August 31, 2013, is transferred and reappropriated to the state board of trustees of the Texas Emergency Services Retirement System for the purpose of implementing the powers, duties, obligations, and rights of action transferred to that system under Subsection (b) of this section.

(f) Notwithstanding the amendment by this Act of Subsection (b), Section 572.003, Government Code, Subsection (d), Section 572.003, Government Code, does not apply to the abolition of the office of the fire fighters' pension commissioner by this Act.

(g) Subsection (f), Section 864.016, Government Code, as amended by this Act, applies to a final decision of the state board of trustees of the Texas Emergency Services Retirement System that is rendered on or after the effective date of this Act. A decision of the state board rendered before the effective date of this Act is governed by the law in effect on the date the decision was rendered, and the former law is continued in effect for that purpose.

SECTION 5.02. The change in law made by this Act to Section 865.002, Government Code, regarding prohibitions on members of the state board of trustees of the Texas Emergency Services Retirement System does not affect the entitlement of a member serving on the board immediately before September 1, 2013, to continue to serve and function as a member of the board for the remainder of the member's term. The change in law made to that section applies only to a member appointed on or after September 1, 2013.

SECTION 5.03. (a) Effective September 1, 2013, all powers, duties, obligations, and rights of action of the fire fighters' pension commissioner under the Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes) are, except as provided by Subsection (e) of this section, terminated as provided by Article 2 of this Act.

(b) In connection with the requirements of Subsection (a) of this section, property and records other than those described by Subsection (c), Section 5.01, of this article are transferred to the comptroller of public accounts in accordance with Subsection (e), Section 325.017, Government Code.

(c) A rule adopted by the fire fighters' pension commissioner in connection with or relating to the Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes) expires on September 1, 2013.

(d) Effective September 1, 2013, the unobligated and unexpended balance of any appropriations made to the fire fighters' pension commissioner in connection with or relating to the Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas

Civil Statutes), for the state fiscal biennium ending August 31, 2013, is transferred to the general revenue fund in accordance with Subsection (c), Section 325.017, Government Code.

(e) Any administrative hearing on appeal to the fire fighters' pension commissioner under Section 22, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is transferred without change in status to the State Office of Administrative Hearings.

SECTION 5.04. The attorney general shall continue any proceeding involving the office of the fire fighters' pension commissioner that is pending on the effective date of this Act in accordance with the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

SECTION 5.05. The changes in law made by this Act apply only to a proceeding involving an appeal under Section 864.016, Government Code, as amended by this Act, or Section 22, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), as amended by this Act, that is commenced on or after the effective date of this Act. A proceeding involving an appeal commenced before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5.06. Sections 325.017 and 325.020, Government Code, apply in relation to the abolition of the office of the fire fighters' pension commissioner. In the event of a conflict between those sections and a provision of this Act, this Act prevails.

SECTION 5.07. If the transfers required under Sections 5.01 and 5.03 of this article are not completed by September 1, 2013, the governor shall appoint a person to complete the transfers.

SECTION 5.08. To the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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